IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

RP.No. 838 of 2007(A)

AGAINST THE JUDGEMENT/ORDER IN WPC.1480/2007 Dated 29/06/2007
.....

REVIEW PETITIONER/IST RESPONDENT

ABDUL SALAM, S/O.MOHAMMED KUNJU,
MAJIDA MANZIL, PAPPALA, PAZHYA KUNNUMEL DESOM,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
MOHAMMED KUNJU AYISHA BEEVI, KODIYIL VEEDU,
THATTATHUMALA, PAZHAYAKUNNUMMAL DESOM.

BY ADV. SRI.M.DINESH

RESPONDENTS: PETITIONER AND RESPONDENTS 2 & 3
----

1. MASOODA, S/O.ABDUL RAHIMAN, LILA
VILASOM, PAZHAYAKUNNUMMEL VILLAGE & DESOM.

2. ANANDA RAGHUVARAN, ANAND,
KARICHAYIL, AVANAVANCHERRY VILLAGE.

3. KRISHNA SARASAMMA, ANAND, KARICHAYIL,
AVANAVANCHERRY VILLAGE.

BY ADV. SRI.R.S.KALKURA

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

R.P. 838 OF 2007

IN

W.P.C. NO. 1480 OF 2007

= = = = = = = = = = = = = = =

Dated this the 1st day of November, 2007.

O R D E R

This review petition is preferred to review the judgment of this Court dated 29th June, 2007. The writ petition was filed against the order of the Court below to issue warrant of arrest against the judgment debtor. Notice was issued to the other side and they did not enter appearance. Thereafter this Court perused the documents produced in the writ petition and was satisfied that the persons were suffering from serious ailments such as cancer and heart problem and taking note of the two decisions of this Court in **Xavier v. Canara Bank Ltd. (1969 KLT 927)** and that of the Apex Court in **Jolly Geroge Varghese v. Bank of Cochin (1980 KLT 375)** found that though the judgment debtor is having a pension he has to treat his wife and himself and therefore there is no intentional evadement of payment of decree amount and therefore set aside the order of the Court below

ordering arrest. Now, the learned counsel for the review petitioner submits that these documents were not produced before the Court below. It is right but the documents which are produced here are treatment records and not mere medical certificates and this Court was convinced about the genuineness of the same and therefore proceeded to dispose of the matter in accordance with law. I do not find any mistake apparent on the face of the records in the order passed by me or other grounds which attract review of the order under Section 47 of the CPC. In the result, the delay is condoned and the review petition is dismissed.

M.N. KRISHNAN, JUDGE.

ul/-